Robert N. Nebb SBN: 14847900

LAW OFFICE OF MICHAEL H. CARPER, P.C.

1102 Main Street Lubbock, Texas 79401 806-747-3016 [Telephone] 806-747-8411 [Telecopier] rnebb@carperlaw.com

Attorneys for Texas Lone Star Auto Auction, LLC

### IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS LUBBOCK DIVISION

IN RE:	§	
REAGOR-DYKES MOTORS, LP	§	Case No. 18-50214-rlj-11
Debtor	§	
IN RE:	§	
REAGOR-DYKES IMPORTS, LP	§	Case No. 18-50215-rlj-11
Debtor	§	(Jointly Administered Under Case No. 18-50214)
IN RE:	§	
REAGOR-DYKES AMARILLO, LP	§	Case No. 18-50216-rlj-11
Debtor	§	(Jointly Administered Under Case No. 18-50214)
IN RE:	§	
REAGOR-DYKES AUTO COMPANY, LP	§	Case No. 18-50217-rlj-11
Debtor	§	(Jointly Administered Under Case No. 18-50214)
IN RE:	§	
REAGOR-DYKES PLAINVIEW, LP	§	Case No. 18-50218-rlj-11
Debtor	§	(Jointly Administered Under Case No. 18-50214)
IN RE:	§	
REAGOR-DYKES FLOYDADA, LP	§	Case No. 18-50219-rlj-11
Debtor	§	(Jointly Administered Under Case No. 18-50214)

### NOTICE OF RECLAMATION DEMAND OF TEXAS LONE STAR AUTO AUCTION, LLC PURSUANT TO 11 U.S.C. § 546(c) AND ADMINISTRATIVE CLAIM PURSUANT TO 11 U.S.C. § 503(b)(9)

Texas Lone Star Auto Auction, LLC ["LSAA"], by its undersigned counsel, files the following Notice of Demand for Reclamation and respectfully represents as follows:

1. On or about August 1, 2018 [the "Petition Date"], Reagor-Dykes Motors, LP [the "Debtor"] and five affiliated entities [collectively the "Debtors"], filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code.

- 2. Prior to the Petition Date, LSAA sold goods in the ordinary course of business to the Debtors Reagor-Dykes Plainview, LP d/b/a Reagor-Dykes Toyota and Reagor-Dykes Ford Lincoln, and the Debtors received these goods within forty-five (45) days of the Petition Date, at a time when the Debtors were insolvent.
- 3. LSAA hereby files this notice of its delivery of a written demand for reclamation pursuant to 11 U.S.C. § 546(c) and § 2-702 of the Uniform Commercial Code [the "Reclamation Demand"] on the Debtors and their attorney of record via email, certified mail-return receipt requested and first class mail, to reclaim certain goods detained in the Reclamation Demand [hereinafter, the "Goods"], to-wit: the vehicles described on Exhibit A, attached hereto and incorporated by reference the same as if fully set out herein [Exhibit A is a true and correct copy of the Reclamation Demand served on the Debtors].
- 4. LSAA is informed and believes, and on that basis alleges, that the Goods remain in the Debtors' possession as of the date of this demand. The Goods are valued at \$107,070.00.
- 5. Pursuant to the Reclamation Demand, LSAA hereby demands the immediate return of the Goods described above and/or payment of all sums due LSAA. LSAA asserts a right of possession and administrative claim against the Debtors' estates for the value of said Goods.
- 6. Notice is hereby specifically given to the Debtors to segregate said Goods from the Debtors' other inventory and fully account for any deficiency until such time that full payment for said Goods is tendered to LSAA or, alternatively, until such time that a final, non-appealable order is entered allowing LSAA a right of possession claim or an administrative expense claim under § 503(b)(9) with respect to said Goods not paid for.
- 7. LSAA further demands that the Debtors cease and desist using, disposing of, selling or transferring said Goods.

PLEASE TAKE FURTHER NOTICE that the filing of this Reclamation Demand is not intended to constitute an election of remedies or a waiver of any rights under Title 11 of the United States Code,

Uniform Commercial Code, or any other applicable law. LSAA asserts title to and possession of the subject

vehicles and expressly reserves any and all rights and remedies under applicable law, including but not

limited to (1) the right to seek setoff or recoupment; (2) its right to be paid in the ordinary course of business

as a post-petition creditor of the Debtors to the extent that the goods were delivered to the Debtors on or after

the Petition Date; (3) its right to be paid as a "critical vendor" pursuant to any order of the Court authorizing

such payment; (4) its right to assert a 20-day administrative priority claim pursuant to 11 U.S.C. 503(b)(9);

(5) its right to assert a "new value" defense to any preference demand pursuant to 11 U.S.C. § 547(c)(4); (6)

its right to demand payment as a "cure" payment in connection with the Debtors' assumption of an executory

contract, if any, pursuant to 11 U.S.C. § 365; and (7) its right to seek payment of pre-petition debts from any

non-debtor party that is a co-obligee or guarantor.

By filing this Reclamation Demand, LSAA does not consent to the entry of final orders by the

Bankruptcy Court on non-core issues, matters and claims, and does not waive any jurisdictional defenses.

PLEASE TAKE FURTHER NOTICE that LSAA hereby asserts, pursuant to 11 U.S.C. §

503(b)(9), an administrative claim for the Goods furnished to the Debtors within twenty (20) days of the

Petition Date, which Goods are referenced in the attached Exhibit A and valued cumulatively in the amount

of \$107,070.00. LSAA further requests that the Court order the immediate payment of such administrative

claim.

Respectfully submitted,

LAW OFFICE OF MICHAEL H. CARPER, P.C.

1102 Main Street

Lubbock, Texas 79401

806-747-3016 [Telephone]

806-747-8411 [Telecopier]

By: /s/ Robert N. Nebb

Robert N. Nebb

SBN: 14847900

rnebb@carperlaw.com

Attorneys for Texas Lone Star Auto Auction, LLC

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served vis the Court's ECF Noticing System to the creditors and parties in interest receiving electronic notice, and to the following on August 21, 2018.

Reagor Dykes Auto Group 1215 Avenue J Lubbock, Texas 79401 (Via First Class Mail)

David R. Langston Mullin Hoard & Brown, LLP P.O. Box 2585 Lubbock, Texas 79408-2585 (Via ECF)

U.S. Trustee 1100 Commerce Street, Room 9C60 Dallas, Texas 75242 (Via ECF)

/s/ Robert N. Nebb
Robert N. Nebb

#### LAW OFFICE OF MICHAEL H. CARPER, P.C.

Attorneys and Counselors at Law 1102 Main Street Lubbock, Texas 79401 E-mail: firm@carperlaw.com

Michael H. Carper Robert N. Nebb

Writer's direct e-mail: nebb@carperlaw.com

Telephone: (806) 747-3016

Telecopier: (806) 747-8411

August 21, 2018

David Langston. Esq.
Mullin Hoard & Brown, LLP
P.O. Box 2585
Lubbock, Texas 79408-2585
drl@mhba.com and First Class Mail

Reagor-Dykes Motors, LP
Reagor-Dykes Plainview, LP
1215 Avenue J
Lubbock, Texas 79401
CM/RRR# 7017 1070 0000 0213 9680 & 1st Class
Mail

**RE:** Reagor-Dykes Motors, LP, Case No. 18-50214-rlj-11 (Jointly Administered), United States Bankruptcy Court for the Northern District of Texas, Lubbock Division.

# RECLAMATION DEMAND TO REAGOR-DYKES MOTORS, LP AND REAGOR-DYKES PLAINVIEW, LP

#### Gentlemen:

Pursuant to Bankruptcy Code § 546(c), Texas Lone Star Auto Auction, LLC ["Creditor"] hereby makes demand for reclamation of goods [the "Goods"] received by Reagor Dykes Motors, LP and Reagor-Dykes Plainview, LP d/b/a Reagor-Dykes Toyota and Reagor-Dykes FordLincoln ["Debtors"] from Creditor within the forty-five (45) days prior to the petition filing date in the Debtors' bankruptcy case at a time when Debtors were insolvent, and which Goods are currently in Debtors' possession. Attached hereto as Exhibit A is documentation describing or identifying the particular Goods for which Creditor asserts its reclamation claim. Creditor reserves the right to modify the scope of the Goods subject to its reclamation claim, following further investigation and subject to applicable law.

Please contact the undersigned for instruction concerning the return of the Goods to Creditor. You are further notified that all Goods subject to Creditor's reclamation rights should be protected and segregated, and are not to be sold or used for any purpose whatsoever except by agreement of the parties or following notice and a hearing by the Bankruptcy Court.

Respectfully yours,

LAW OFFICE OF MICHAEL H. CARPER, P.C.

By: \_\_\_

Robert N. Nebb

RNN/lk

Enclosure

cc:

Client



# TEXAS LONE STAR AUTO AUCTION - LUBBOCK

# Purchases Summary For Customer #3904 REAGOR-DYKES TOYOTA From 07/25/18 thru 07/26/18 Printed On 08/02/18 04:47 PM

PHONE: 806-288-1610 FAX: 806-

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PAID TO US REC # & DATE PAID WITH BUYER DRAFT 806-745-6066

Member of





## TEXAS LONE STAR AUTO AUCTION - LUBBOCK

# Purchases Summary For Customer #1653 REAGOR DYKES FORD LINCOLN From 07/25/18 thru 08/03/18 Printed On 08/03/18 01:06 PM

PHONE: 806-293-2511 FAX: 806-293-2544

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# Case 18-50214-rlj11 Doc 144 Filed 08/21/18 Entered 08/21/18 17:15:46 Page 13 of 13

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